

## HUMAN SERVICES DEPARTMENT[441]

### Adopted and Filed

Pursuant to the authority of Iowa Code section 237A.12, the Department of Human Services hereby amends Chapter 109, “Child Care Centers,” Chapter 110, “Child Development Homes,” and Chapter 120, “Child Care Homes,” Iowa Administrative Code.

The Department is required by federal legislation, CFR 45, Part 98, to implement professional development requirements for child care homes that are not registered but have a child care assistance provider agreement. Further, the Department is permitted to make exemptions for relatives that meet the federal definition of “relative.” These amendments provide consistency for requirements for professional development training entities and topics. These amendments also make enhancements to sleep practices to ensure that children who are sleeping in child care facilities are using items designed for sleeping which meet Consumer Product Safety Commission (CPSC) or American Society for Testing and Materials (ASTM) requirements.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3436C** on November 8, 2017. The Department received 19 comments from ten respondents on this rule making. A summary of the respondent’s comments and the Department’s responses are as follows:

**Comment 1:** Twelve comments were made in support of the recommended changes.

**Department response 1:** The Department appreciates the support of the respondents in this rule-making process.

**Comment 2:** Two comments were made suggesting that an approximate amount of time to check on children be added or that more guidance be provided regarding the expectation for sight and sound observation.

**Department response 2:** The Department recognizes the potential benefit of this addition. It is noted that expectations for observation times may vary for specific children, by age of child and location of sleeping. The Department and resource and referral agencies are available to provide feedback to child care providers on what may be appropriate expectations for their specific programs. At this time, the Department will not promulgate rules to require specific time frames.

**Comment 3:** Three comments were made that in-home day care providers should be required to follow the same requirements as child care centers and that they should receive training before the providers are able to keep children in their homes. It was requested that providers should have training regarding safe sleep practices.

**Department response 3:** The Department is responsible for promulgating administrative rules to implement Iowa Code section 237A.12. Iowa Code section 237A.3 permits child care homes to provide child care to five or fewer children without being required to register as a child development home. The provisions in the Iowa Code are enacted by the State Legislature, and any changes to the Iowa Code regarding an expansion of those who are required to abide by administrative rule requirements must go through the legislative process. Child development homes, child care homes with Child Care Assistance Provider Agreements and licensed child care center staff are currently required to complete preservice/orientation, which includes a module on safe sleep practices. No modifications to the rules will be made at this time.

**Comment 4:** Three comments were made to verify that children over one year of age would also be included in the prohibition from the use of restraint devices.

**Department response 4:** The rules are written to prohibit the allowance of restraint devices in cribs for any aged child. No change is needed to these amendments.

These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on December 13, 2017.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 237A.12.

These amendments will become effective March 1, 2018.

The following amendments are adopted.

ITEM 1. Amend subparagraph **109.12(5)“e”(7)** as follows:

(7) If an alternate sleeping position is needed, a signed physician or physician assistant authorization with statement of medical reason is required.

ITEM 2. Adopt the following **new** paragraph **109.12(5)“i”**:

i. All items used for sleeping must be used in compliance with manufacturer standards for age and weight of the child.

ITEM 3. Rescind subrule 110.8(5) and adopt the following **new** subrule in lieu thereof:

**110.8(5) Safe sleep.**

a. The provider shall follow safe sleep practices as recommended by the American Academy of Pediatrics for infants under the age of one. Infant sleep shall conform to the following standards:

(1) Infants shall always be placed on their backs for sleep.

(2) Infants shall be placed on a firm mattress with a tight fitted sheet that meets U.S. Consumer Product Safety Commission federal standards.

(3) Infants shall not be allowed to sleep on a bed, sofa, air mattress or other soft surface.

(4) No toys, soft objects, stuffed animals, pillows, bumper pads, blankets, or loose bedding shall be allowed in the sleeping area with the infant.

(5) No co-sleeping shall be allowed.

(6) Sleeping infants shall be actively observed by sight and sound.

(7) If an alternate sleeping position is needed, a signed physician or physician assistant authorization with statement of medical reason is required.

b. No child shall be allowed to sleep in any item not designed for sleeping including, but not limited to, an infant seat, car seat, swing, or bouncy seat.

c. A crib or criblike furniture which has a waterproof mattress covering and sufficient bedding to enable a child to rest comfortably and which meets the current standards or recommendations from the Consumer Product Safety Commission or ASTM International for juvenile products shall be provided for each child under two years of age if developmentally appropriate. Crib railings shall be fully raised and secured when the child is in the crib. A crib or criblike furniture shall be provided for the number of children present at any one time. The home shall maintain all cribs or criblike furniture and bedding in a clean and sanitary manner. There shall be no restraining devices of any type used in cribs.

d. All items used for sleeping must be used in compliance with manufacturer standards for age and weight of the child.

ITEM 4. Rescind paragraph **110.10(1)“e.”**

ITEM 5. Reletter paragraphs **110.10(1)“f”** and **“g”** as **110.10(1)“e”** and **“f.”**

ITEM 6. Adopt the following **new** paragraph **110.10(1)“g”**:

g. A provider who has completed training through a child care resource and referral agency or community college within six months prior to initial registration shall be permitted to count the training toward the provider’s total training required during the initial registration.

ITEM 7. Adopt the following **new** definition of “Relative” in rule **441—120.1(237A)**:

“Relative” means grandparents, great grandparents, aunts, uncles, and siblings living in a separate residence.

ITEM 8. Rescind subrule 120.8(5) and adopt the following **new** subrule in lieu thereof:

**120.8(5) Safe sleep.**

a. The provider shall follow safe sleep practices as recommended by the American Academy of Pediatrics for infants under the age of one. Infant sleep shall conform to the following standards:

(1) Infants shall always be placed on their backs for sleep.

(2) Infants shall be placed on a firm mattress with a tight fitted sheet that meets U.S. Consumer Product Safety Commission federal standards.

(3) Infants shall not be allowed to sleep on a bed, sofa, air mattress or other soft surface.

(4) No toys, soft objects, stuffed animals, pillows, bumper pads, blankets, or loose bedding shall be allowed in the sleeping area with the infant.

(5) No co-sleeping shall be allowed.

(6) Sleeping infants shall be actively observed by sight and sound.

(7) If an alternate sleeping position is needed, a signed physician or physician assistant authorization with statement of medical reason is required.

b. No child shall be allowed to sleep in any item not designed for sleeping including, but not limited to, an infant seat, car seat, swing, or bouncy seat.

c. A crib or criblike furniture which has a waterproof mattress covering and sufficient bedding to enable a child to rest comfortably and which meets the current standards or recommendations from the Consumer Product Safety Commission or ASTM International for juvenile products shall be provided for each child under two years of age if developmentally appropriate. Crib railings shall be fully raised and secured when the child is in the crib. A crib or criblike furniture shall be provided for the number of children present at any one time. The home shall maintain all cribs or criblike furniture and bedding in a clean and sanitary manner. There shall be no restraining devices of any type used in cribs.

d. All items used for sleeping must be used in compliance with manufacturer standards for age and weight of the child.

ITEM 9. Adopt the following new subrule 120.10(6):

**120.10(6)** During each two-year provider agreement period, the provider shall receive a minimum of six hours of training. A provider shall not use a specific training or class to meet minimum continuing education requirements more than one time every five years.

a. Training shall be completed from one or more of the following content areas.

(1) Planning a safe, healthy learning environment (includes nutrition).

(2) Steps to advance children's physical and intellectual development.

(3) Positive ways to support children's social and emotional development (includes guidance and discipline).

(4) Strategies to establish productive relationships with families (includes communication skills and cross-cultural competence).

(5) Strategies to manage an effective program operation (includes business practices).

(6) Maintaining a commitment to professionalism.

(7) Observing and recording children's behavior.

(8) Principles of child growth and development.

b. Training identified in subrule 120.10(1) may be counted toward the total six hours of required training only at the initial time in which the training is received.

c. A child care home provider operating under this chapter that meets the definition of "relative" as defined in rule 441—120.1(237A) shall be exempt from the training requirements under this subrule.

ITEM 10. Adopt the following new subrule 120.10(7):

**120.10(7)** Approved training.

a. The training must be conducted by a trainer who is employed by or under contract with one of the following entities or who uses curriculum or training materials developed by or obtained with the written permission of one of the following entities:

(1) An accredited university or college.

(2) A community college.

(3) Iowa State University Extension.

(4) A child care resource and referral agency.

(5) An area education agency.

(6) The regents' center for early developmental education at the University of Northern Iowa.

(7) A hospital (for health and safety, first-aid, and CPR training).

(8) The American Red Cross, American Heart Association, National Safety Council, American Safety and Health Institute or MEDIC First Aid (for first-aid and CPR training).

(9) An Iowa professional association, including the Iowa Association for the Education of Young Children (Iowa AEYC), the Iowa Family Child Care Association (IFCCA), the Iowa After School Alliance, and the Iowa Head Start Association.

(10) A national professional association, including the National Association for the Education of Young Children (NAEYC), the National Child Care Association (NCCA), the National Association for Family Child Care (NAFCC), the National After School Association, and the American Academy of Pediatrics.

(11) The Child and Adult Care Food Program (CACFP) and the Special Supplemental Nutrition Program for Women, Infants and Children (WIC).

(12) The Iowa department of public health, department of education, or department of human services.

(13) Head Start agencies or the Head Start technical assistance system.

(14) Organizations that are certified by the International Association for Continuing Education and Training (IACET).

*b.* Training received in a group setting must follow a presentation format that incorporates a variety of adult learning methods. The material or content of the training must be obtained from one of the entities listed in paragraph 120.10(7) “*a*” or an entity approved under paragraph 120.10(7) “*h*.”

*c.* Approved training shall be made available to Iowa child care providers through the child care provider training registry.

*d.* Training received in a group setting may include distance learning opportunities, such as training conducted over the Iowa communications network, online courses, or web conferencing (webinars) if:

(1) The training meets the requirements in subrule 120.10(8);

(2) The training is taught by an instructor and requires interaction between the instructor and the participants, such as required chats or message boards; and

(3) The training organization meets the requirements listed in this subrule or is approved by the department.

*e.* The department will not approve more than eight hours of training delivered in a single day.

*f.* The department may randomly monitor any state-approved training for quality control purposes.

*g.* Training conducted with the provider either during the hours of operation of the facility, provider lunch hours, or while children are resting must not diminish the required ratio coverage. The provider shall not be actively engaged in care and supervision and simultaneously participate in training.

*h.* A training organization not approved by the department may submit a request for review to the department on Form 470-4528, Request for Child Care Training Approval. All approvals, unless otherwise specified, shall be valid for five years. The department shall issue its decision within 30 business days of receipt of a complete request.

ITEM 11. Adopt the following **new** subrule 120.10(8):

**120.10(8)** Elements of training. Training provided to Iowa child care providers shall offer:

*a.* Instruction that is consistent with:

(1) Iowa child care regulatory standards;

(2) The Iowa early learning standards; and

(3) The philosophy of developmentally appropriate practice as defined by the National Association for the Education of Young Children, the Program for Infant/Toddler Care, and the National Health and Safety Performance Standards.

*b.* Content equal to at least one contact hour of training.

*c.* An opportunity for teacher-student interaction and timely feedback, including questions and answers and with evaluation of learning.

*d.* For each participant, a certificate of training that includes:

(1) The name of the participant.

- (2) The title of the training.
- (3) The dates of training.
- (4) The content area addressed.
- (5) The name of the training organization.
- (6) The name of the instructor.
- (7) The number of contact hours.

[Filed 12/13/17, effective 3/1/18]

[Published 1/3/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/3/18.